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(b) whether the Madras House Rent Control Order was promulgated to prevent undue increase in rent and ensure security of tenure;

(c) whether statistics are available of cases tried under the various clauses of the order and what they are;

(d) whether the order ceases to have effect after 30th September 1946; and

(e) whether the Government propose to enact legislation to afford protection to tenants?

THE HON. SRI R. RAGHAVA MENON :—“(a) & (b) Yes.

“(c) Statistics are not readily available.

“(d) Yes.

“(e) The question of enacting legislation for the continuance of the rent control measures beyond the 30th September 1946 is receiving the attention of the Government.”

II.—ANNOUNCEMENT BY THE HON. THE PRESIDENT.

MR. PRESIDENT :—“I have to announce to the House that the following message, dated 6th September 1946, has been received by me from the Hon. the Speaker of the Madras Legislative Assembly :—

‘In accordance with rule 94 of the Madras Assembly Rules, I transmit a copy of the Madras District Municipalities and Local Boards (Second Amendment) Bill, 1946 (L.A. Bill No. 5 of 1946) as passed by the Assembly on the 6th September 1946 and signed by me, for the concurrence of the Council.’”

[Note.—An asterisk (*) at the commencement of a speech indicates revision by the Member.]

GOVERNMENT BILLS.

III.—THE MADRAS DISTRICT MUNICIPALITIES AND LOCAL BOARDS (SECOND AMENDMENT) BILL, 1946.

* THE HON. MR. DANIEL THOMAS :—“Sir, I move—

‘that the Madras District Municipalities and Local Boards (Second Amendment) Bill, 1946, as passed by the Legislative Assembly be taken into consideration at once.’

“In moving this motion I should like to invite the attention of the House to a few facts. The last elections to municipalities and district boards were held somewhere about the year 1937. In the year 1939, shortly after the outbreak of war, the Congress Ministry which was in office resigned and the Government of the Province was taken over by the Governor under the powers vested in him under section 93 of the Government of India Act. But these municipalities and local boards continued to function up to June 1942. In the year 1942, in connection with what is known as the August Movement for national freedom, many of the local bodies passed resolutions expressing their sympathy with the movement for national freedom and desiring the release of the national leaders who had been put in prison. The Government of the day did not approve of those resolutions passed by the local bodies. Under the Local Boards Acts of 1920 and 1930 there are powers vested

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in the Government to dissolve or supersede these bodies for incompetence or maladministration. But those resolutions were not connected with the administration of those local bodies and therefore action could not be taken against all local bodies under those Acts. But under the Defence of India Rules those bodies which passed such resolutions were superseded and special officers were appointed. It was in this context that Act XXIV of 1942 was passed by the Governor as an Ordinance. The special provision contained in the Act is to reconstitute these superseded municipalities and district boards by means of appointments by the Government. It is well known that this principle of elections to local bodies was introduced in our Province somewhere about the end of the last century. Till about 1930 these local bodies continued partly with elected members and partly with members nominated by the Government. In the year 1930 this system of nomination was completely abolished and the entire membership of these bodies was thrown open for election. In this province elections were held in 1937 and the elected local bodies continued to function till 1942. Then under Act XXIV of 1942 the system of election was abolished and power was taken by the Government to constitute these superseded bodies by means of nominations and appointments. Clause 2 of the present Bill seeks to restore the old position and provides for the reconstitution of the superseded bodies by means of election. Under the Act of 1942 it is obligatory on the part of the Government—there is no option at all—to reconstitute the superseded municipal councils or district boards by means of appointments only. A concrete case arose very recently in Chittoor District Board. This district board was reconstituted by means of appointments in 1943. The strength of the board was 25 members. At the beginning of this year, of the 25 members, 19 members resigned and the remnant that was left was not competent or able to fulfil the duties of the district board. The Government superseded the board and appointed a special officer to carry on the administration.

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“ Elections to these local bodies are to take place shortly in November and December of this year. With regard to the Chittoor District Board, under Act XXIV of 1942 there was no choice or only the Hobson's choice of constituting the board by appointments. The present Government are opposed to the principle of nomination and I take it that all sections of this House are agreed that the virtue and the utility and the representative character of these local bodies are derived only from the fact that they are composed of elected representatives of the people. Therefore this Government, opposed as it is to the principle of nomination, did not want to reconstitute the board in the way it has been done under the Act of 1942. If any municipality or district board is superseded for reasons which are considered good and sufficient by the Government such as maladministration or incompetency, just as in the case of the Chittoor District Board it will have to be reconstituted by means of nomination. We have now to provide for the concrete case of the Chittoor District Board which is the

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immediate question and also for cases of other municipalities and district boards which may be superseded in future. It is therefore necessary to take power to reconstitute these bodies by means of elections.

“ Clause 2 of the Bill seeks to take power for this purpose. It applies to both municipalities and district boards. Clause 3 of the Bill is only a transitory provision for the purpose of carrying on the election in a proper manner. Under Act XXIV of 1942 the position is whenever a district board is reconstituted the members of the newly reconstituted board must come into office as soon as the old members go out of office. As things stand at present these members go out of office on the 1st of November 1946 and in order to reconstitute these bodies elections should be held so that the new members may come into office on the same day, that is, 1st November 1946. The Government for various reasons have decided to postpone the elections to November and December 1946. Moreover it is considered by the Government that in order to give fair field and no favour to any particular party it would be necessary and desirable that during that election and for some time immediately preceding the election the administration of these local bodies should be in the hands of special officers. Some of the district boards are now manned by Congress Party members and some by members appointed under Act XXIV of 1942. Whatever parties these members may belong to, it is necessary and desirable that at the time of the election both the parties should be taken away from the charge of the administration of the district boards and their administration entrusted to special officers.

“ Also, Sir, this Bill takes power to create an interregnum. When the present members go out of office special officers will be appointed. Elections will be held and new members will come into office in due course. In this interregnum the special officers will carry on the administration. Clause 3 gives power to the Government to create an interregnum between the time the present members go out of office and the time when the newly elected members come into office and also to appoint special officers for this period.

“ So far as clause 2 is concerned the Bill proceeds on well-accepted democratic principles. For good or for evil, perhaps for good and not for evil, democracy has come to stay in this country and in this decade of the 20th century it is too late to go back to nominations for local bodies. Therefore I am sure the principle of clause 2 will be accepted by all sections of the House. Clause 3 is only transitory provision intended to meet the immediate needs of the present situation and I submit that there could be no objection to that also. Clause 4 is only a reserve provision which is found not only in this Bill but in the various Acts which have come on the statute book during the last 10 or 20 years and it is intended to provide for unforeseen and unforeseeable difficulties. The clause reads—

“ If any difficulty arises in giving effect to the provisions of this Act, or of the Madras District Municipalities Act, 1920, the Madras Local Boards Act, 1920,

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or the Madras City Municipal, District Municipalities and Local Boards (Second Amendment) Act . . . the Provincial Government may as occasion may arise by order do anything which appears to them necessary for the purpose of removing the difficulty."

This provision is restricted for purposes of giving effect to the provisions of this Act. It is not a wide and unrestricted power but a special power for a special and limited purpose and it is in accordance with provisions in similar enactments in other Provinces and is intended to meet unforeseen difficulties. As the provisions of the Bill are non-controversial and are of an acceptable character, I commend the Bill for the acceptance of the House."

* SRI A. GOVINDACHARYULU :—" On a point of order. As the Hon. Mr. Daniel Thomas is not a Member of this House, I submit, Sir, that he has no right to move a Bill of this kind in this House."

* MR. PRESIDENT :—" I think he has the right."

* SRI A. GOVINDACHARYULU :—" Under what section of the Government of India Act or the rules framed thereunder, Sir? "

* MR. PRESIDENT :—" A Member of the Government has got the right of audience."

* SRI A. GOVINDACHARYULU :—" I submit, Sir, that the Minister has got a right to take part in this House; that means only speaking during the debates. That is all that section 64 of the Government of India Act provides. Section 64 reads—

'Right of Ministers and Advocate-General as respects Chambers.'

Every Minister and the Advocate-General shall have the right to speak in, and otherwise take part in of the proceedings of, the Legislative Assembly of the Province or in the case of a Province having a Legislative Council, both Chambers and any joint sitting of the Chambers, and to speak in, and otherwise take part in the proceedings of, any Committee of the Legislature of which he may be named a member, but shall not, by virtue of this section, be entitled to vote."

* MR. PRESIDENT :—" The hon. Member may please refer to rule 103 of the Legislative Council Rules. It says :

'At any time after copies have been laid on the table in the case of a Government Bill, any member acting on behalf of the Government and in any other case any member may give notice of his intention to move that the Bill be taken into consideration.'

* SRI B. BHIMA RAO :—" Sir, I would invite your attention to the definitions in rule 1 (2) (g), (h) and (i). The definition (g) says that 'Member' means a member of the Council, and the definition (h) says that 'Member in charge of a Bill' means in the case of Government Bill any member acting on behalf of the Government; and in any other case the member who has introduced the Bill or where the Bill is one which was introduced in the Assembly and read in the Council, the member who has given notice of his intention to move that the Bill be taken into consideration. The definition (i) says that a 'Member of Government' means a Minister and includes any member to whom such Minister may delegate his functions, because in the case of a Minister who

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is not a member of this House, it is provided that he may instruct a sitting Member of this House to move the Bill.

“ Rule 74 says :

‘ 74. No motion that a Bill be taken into consideration or be passed shall be made by any member other than the member in charge of the Bill and no motion that a Bill be referred to a Select Committee or be circulated or recirculated for the purpose of eliciting opinion thereon shall be made by any member other than the member in charge except by way of amendment to a motion made by the member in charge.’

“ Rule 103 says :

‘ 103. At any time after copies have been laid on the table in the case of a Government Bill, any Member acting on behalf of the Government and in any other case, any member may give notice of his intention to move that the Bill be taken into consideration.’

“ Here ‘ Member ’ means a Member of the House.

“ Rule 105 says :

‘ 105. On the day on which such motion is set down in the list of business, the member in charge of the Bill may move that the Bill be taken into consideration.’

“ I therefore submit there seems to be some force in the objection raised by my friend Mr. Govindacharyulu that a ‘ Member ’ means a Member of this House. It is a courtesy due to this House that only a Member of this House can move a Bill.”

* THE HON. MR. DANIEL THOMAS :—“ On this point of order I would invite your attention and the attention of the House to section 64 of the Act. The Ministers of the Government are in a special position with reference to Membership of this House. The section clearly says that every Minister and the Advocate-General shall have the right to speak in and otherwise take part in the proceedings of the Legislative Assembly of the Province or in the case of a Province having a Legislative Council, both Chambers and any joint sitting of the Chambers, and to speak in, and otherwise take part in the proceedings of, any committee of the Legislature of which he may be named a member, but shall not, by virtue of this section, be entitled to vote. If a Minister is a Member of either House of a Legislature he is entitled to take part in the proceedings of the other House. I would therefore submit that the right of membership is conferred by virtue of section 64 on all Ministers of the Government who do not happen to be Members of this House but that right is restricted, i.e., they are entitled to speak and take part in the proceedings but are not entitled to vote. Taking section 64 along with the rules 103 and 105 of the Madras Legislative Council Rules I submit the position is absolutely clear. A ‘ Member in charge of a Bill ’ is here the Minister of the Government and under section 64 of the Government of India Act he is entitled to speak in and take part in the proceedings but not entitled to vote. I submit that my motion that the Bill be taken into consideration at once is only ‘ speaking ’, within the meaning of section 64. (Laughter.) As a Member of the Government I am entitled to speak and take part in the proceedings and in moving the motion I exercise the right conferred

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on me by section 64 of the Government of India Act. It cannot be taken away from me. The procedure is also laid down in the rules. I would therefore submit that there is no substance in the point of order which has been raised."

* SRI B. BHIMA RAO :—" Sir, in reply to the arguments of the Hon. Minister I have to say that the expression ' take part in ' is quite limited in scope. After the introduction of a measure in a valid manner any Member of this House is entitled to take part and make speeches. The expression ' take part in ' does not include initiation of the measure and this is to be done only by a Member of this House. For the rest, of course, the Minister is entitled to make speeches in this House. In this connexion, Sir, section 64 refers also to the Advocate-General. Is it the argument of my Hon. Friend that the Advocate-General also is entitled to introduce a Bill, if his contention that the introduction of a Bill is also included in the category of taking part in the Bill is correct? I submit it is not so. Due courtesy should be shown to the Members of this House and the rules adhered to."

* SRI A. GOVINDACHARYULU :—" Mr. President, I may inform you that in the Central Legislature the Executive Councillors are nominated to the Assembly and the Secretaries are nominated to the Council of State. We have seen nowhere in the proceedings an Executive Councillor moving a motion in the Council of State ; only the Secretaries have done so. A similar point of order was raised in the U.P. Legislative Council."

* MR. PRESIDENT :—" Was a ruling obtained? "

* SRI A. GOVINDACHARYULU :—" I remember so, Sir. I shall submit it for your consideration, but it will take some time." (Laughter.)

* SRI R. SURYANARAYANA RAO :—" Are there precedents during the last Congress Government, where a Member of the House made the motion, and later other Ministers took part? "

THE HON. SRI T. PRAKASAM :—" The hon. Member is straining a point."

* MR. PRESIDENT :—" The opinion of the Advocate-General is available on the scope of section 64. It is rather lengthy and I shall read it :

' Having regard to the comprehensive expression ' otherwise take part in the proceedings ' employed in section 64, in juxtaposition to the right to speak in either Chamber or in any joint sitting of the Chambers and to the fact that the only limitation placed upon the Minister or the Advocate-General is in respect of his right to vote, I am clearly of opinion that it is not possible to place any limitations in regard to the manner or the extent to which the Minister or the Advocate-General can take part in the proceedings. If they are to be prevented from giving notice in regard to Bills, etc., on the ground that the giving of such notice does not come within the expression ' taking part in the proceedings ' of the Legislative Assembly it will practically nullify the effect of the comprehensive terms in which their rights are expressed, or at any rate reduce the scope for the exercise of their rights to very narrow limits, such as raising points of order or answering questions. Even in the case of persons who are pucca members of either Chamber, there is no section which in terms confers on them any special rights in regard to

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the preliminary steps to be taken for initiating legislation or moving resolutions. It is only in the rules that a Chamber of the Provincial Legislature is empowered to make under section 84 (1) for regulating its procedure and the conduct of its business that provision will have to be made for the necessary steps to be taken for initiating legislation or moving resolutions in either Chamber. The rules are therefore intended to be ancillary to the effectual exercise of the rights conferred upon the members or other persons in regard to either Chamber of the Legislature. That being so, if section 64 does not put any limitation upon the right of the Minister or the Advocate-General excepting the particular limitation mentioned in the section, the rules framed under section 84 can make the necessary provisions for their effectually exercising the rights conferred upon them under section 64.

'In this connexion I may invite attention to the fact that the language employed in section 64 is much wider than that in section 63-E (4) of the old Government of India Act which clothes a Member of the Governor-General's Executive Council, who is nominated as a Member of one Chamber, with the right of attending in and addressing the other Chamber. Section 64 is expressed in even wider terms than section 52 of the South Africa Act of 1909 which merely invests a Minister of State who is a member of one house of parliament with the right to sit and speak in the other.

'The further considerations that section 64 exactly reproduces the language of section 21 and that in regard to the latter section the avowed intention of His Majesty's Government as conveyed in the white paper was that the counsellors should be ex-officio members of both Chambers of the Legislature though without the right to vote and that section 64 confers a right on the Ministers and the Advocate-General to take part in the proceedings of any committee of the Legislature confirm the conclusion I have reached on a proper interpretation of the actual terms employed in section 64.'

"So, I think the position is clear. The Minister has the right to initiate the proceedings in this House also."

* SRI B. BHIMA RAO :—"Then, Sir, may I say a few words on the principle of the Bill? Certainly, there would not be any difference of opinion with regard to the principle of the Bill. But certain sections of the public are apprehensive that these elections will be rushed through by the present ministry without taking proper safeguards for laying a sure and solid foundation for the electorate. The Hon. Minister stated that certain evils crept in and certain sections of the municipal councils and local bodies resigned their seats in 1942 thereby necessitating the then Government passing Act XXIV of 1942. Some members got themselves elected then but they were not efficient in the discharge of their functions and therefore the Government felt compelled to enact the measure of 1942 to enable them to nominate the entire local bodies.

"Now, Sir, in the course of these four years, it has so happened—I am not opposing, I am only mentioning certain safeguards which must be taken into consideration before the elections are ordered—it has happened not only in my district but in other districts also that the voters' lists have not been properly prepared. I have heard it said by members of more than one municipality this morning that during the last four or five years, certain sections which were in power on account of the nominations made in 1942 have so manœuvred and got their own people entered in the voters' lists while important sections have been ignored. The other day

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one important member asked : ' Why did you sleep? Why did you not take interest and see that the voters' list was properly prepared? ' The last election for the district boards and the municipalities was held in 1938 and for the last eight years no election at all has been held. It is only on the eve of the elections that people take interest in them."

* MR. PRESIDENT :—" I would like to know whether the hon. Member is opposing the consideration of the Bill? "

* SRI B. BHIMA RAO :—" I am not opposing, Sir. I am supporting the Bill. I only want certain safeguards."

* MR. PRESIDENT :—" I do not want any hon. Member now to speak in support of the Bill. I should like to know if any hon. Member is opposing the Bill."

* SRI R. SURYANARAYANA RAO :—" May I say a few words, Sir?"

* MR. PRESIDENT :—" By way of opposition? For if there is no opposition, I shall straightaway put the question for taking the Bill into consideration."

* SRI R. SURYANARAYANA RAO :—" There may be some general observations to be made, though not opposition to the general principle of the Bill."

* MR. PRESIDENT :—" The hon. Member may make them when the Bill is considered clause by clause."

* SRI R. SURYANARAYANA RAO :—" Not on the clauses, Sir."

* MR. PRESIDENT :—" May I know what the hon. Member wants? If there is no opposition to the principles of the Bill, are we to go on hearing arguments on the Bill at this stage. The present position is this : so far as the motion made by hon. Minister is concerned, if there is no opposition, the question will have to be put to vote."

* ABDUL LATIF FAROOKHI SAHIB BAHADUR :—" There is opposition."

* MR. PRESIDENT :—" There is no stage of ' introduction '. The question is that the Bill be considered immediately."

* DR. V. K. JOHN :—" On a point of information, Sir, under Rule 105 of the Council Rules, we can discuss the principle of the Bill and its general provisions, but the details of the Bill must not be discussed further than is necessary to explain its principle. Sir, there is clause 4 to the introduction of which one may take very serious objection while congratulating the hon. Minister in introducing the other clauses of the Bill."

* MR. PRESIDENT :—" The hon. Member may just understand me aright. I have absolutely no objection and I will allow hon. Members ample opportunity to put forward their objections to the clauses. The question is, is there any objection to the Bill being considered immediately? That is the point."

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* ABDUL LATIF FAROOKHI SAHIB BAHADUR :—“ I was saying, Sir, that we on this side of the House strongly object to the Bill being taken into consideration now, because we have to record our emphatic protest against the manner in which the legislation rushed through in this House. This Bill has only just now been finished in the Lower House. The Bill has been placed on the table of this House only just now and no opportunity has been given to hon. Members to read it and, if necessary, move any amendments.”

12-15
p.m.

* MR. PRESIDENT :—“ This Bill was published in the Gazette on the 7th August and copies of the Bill were sent to each and every member of this honourable House in due course even in August. The Bill has not undergone any change in the Assembly. Notice of motion was received and copies of the Bill as passed by the Assembly were also sent to the members, to their local addresses on the 6th. So, it is not proper to say that the members have not had an opportunity to give notice of amendments.”

* K. T. M. AHMED IBRAHIM SAHIB BAHADUR :—“ We can give notice of amendments to the Bill within three days from the date of receipt of the Bill.”

* MR. PRESIDENT :—“ Copies of the Bill as passed by the Assembly were sent to the local addresses of members. The Bill has not undergone any change in the Assembly. I waive notice under rule 112 and I am willing to allow amendments to be given notice of on the same day.”

* K. T. M. AHMED IBRAHIM SAHIB BAHADUR :—“ Then what about our right to give notice of amendments within three days? Where is the time to give notice now of such amendments?”

* MR. PRESIDENT :—“ That is why I referred to the Bill being published as long ago as the 27th August; copies were sent to the members on the 6th instant as passed by the Assembly.”

* K. T. M. AHMED IBRAHIM SAHIB BAHADUR :—“ But we can consider the Bill only after it is placed before this House after being passed by the Assembly. Whatever is done by the Assembly, whether it is passed or not passed, we cannot take notice of.”

* MR. PRESIDENT :—“ I may inform the Member that the Bill as passed by the Assembly was posted on the 6th.”

* SRI R. SURYANARAYANA RAO :—“ May I know under rule 105, can we not discuss the provision to explain its principles?”

* MR. PRESIDENT :—“ Only if there is opposition. I am sure Mr. Suryanarayana Rao will agree with me that there is not much point in discussing details unless there is any opposition to the Bill.”

* DR. V. K. JOHN :—“ If there is opposition to any particular part and not to the whole?”

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* MR. PRESIDENT :—“ Then you object to that part.”

* DR. V. K. JOHN :—“ Therefore we can discuss the general provisions to that extent, and we ought to do so at this stage.”

* MR. PRESIDENT :—“ I am unable to understand the Member's point. If there is any general opposition to the Bill, we will take it up now and speak and vote on it. But if there is objection to any particular clause, we can go into it when that particular clause comes up for discussion.”

* SRI R. SURYANARAYANA RAO :—“ Rule 105 permits such discussion. If we discuss the general principles, there may not be opposition to the clause perhaps, when the Bill is taken up for consideration.”

* DR. V. K. JOHN :—“ Sir, we are at the stage at which rule 105 applies, and it reads as follows :

‘ On the day on which such motion is set down in the list of business, the member in charge of the Bill may move that the Bill be taken into consideration.’

I take it this has been done.

‘ On that date or on any subsequent day to which the discussion of the motion is postponed’

I take it you have ruled that it should be taken to-day.

‘ the principle of the Bill and its general provisions may be discussed, but the details of the Bill must not be discussed further than is necessary to explain its principle.’

Then rule 106 says :

‘ Any member may (if the Bill has not already been referred to a Select Committee of the Assembly, or to a Joint Committee of both Chambers, but not otherwise), ...’

It has not been referred to a Select Committee of the Assembly or to a Joint Committee of both Chambers.

‘ move as an amendment that the Bill be referred to a Select Committee, and if such motion is carried, the Bill shall be referred to a Select Committee and the rules regarding Select Committees on Bills originating in the Chamber shall then apply.’

“ Then again, rule 107 goes on to say :

‘ If the motion that the Bill be taken into consideration is carried, the Bill shall be taken into consideration, and the provisions of the rules of the Council regarding consideration of clauses of Bills and amendments to such clauses and the subsequent procedure in regard to the passing of Bills shall apply.’

Sir, you have the jurisdiction to allow amendments without giving three days' notice. But the point is that this Bill, as I understand it, was passed by the Assembly on Friday, we got the copy of the Bill as passed by the Assembly on Saturday. We had no occasion to go through it and no opportunity to give amendments to it. Unless it is passed by the Assembly, we cannot give notice of amendments to the Bill; otherwise the amendments given notice of by us may be considered in the other House itself and get passed there. I am not discussing the general provisions of the Bill just now, Sir; but I say that if the members of this House are given an opportunity to discuss the general provisions, it is quite possible that the Government themselves may move

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necessary amendments. I therefore request you may be pleased to follow the provision in rule 105 and allow a discussion of the principles, without going into details. As you said amendments could be moved when the clauses are reached, I take it that you will allow us to move amendments, as we have had no opportunity to give three days' notice, as required ordinarily under the rules.

"As I said, Sir, I should like to discuss certain principles underlying this Bill. I heartily approve of certain portions of the Bill; I very strongly disapprove of certain other provisions embodied in it. Therefore, I say there should be a general discussion on the principles of the Bill because there is not one principle only, there are many principles here. One principle is that there should be election and not nomination. I think hon. Members will heartily support it. Another principle is that the Government should be given overriding powers. I have heard of Government being given powers to frame rules, to make rules to carry into effect the provisions of an Act, but not for doing anything—I am only on the preliminary point. I hope you will be pleased to allow a general discussion on the principles of the Bill, Sir."

* MR. PRESIDENT :—"I can't see any difficulty. I feel there is no necessity for discussion when all people agree about the Bill and there is no opposition."

* DR. V. K. JOHN :—"There is very serious objection to one provision of the Bill, Sir, that is to clause 4 of the Bill."

* MR. PRESIDENT :—"It is an opposition to clause 4 which may be taken up at the stage when it is reached."

* DR. V. K. JOHN :—"Clause 4 not only concerns this Act, but concerns the Madras District Municipalities Act. . . ."

* MR. PRESIDENT :—"Let us not waste further time over this. You please go on."

* SRI B. BHIMA RAO :—"I was speaking, Sir, and I shall continue my speech."

"As I said before, I am agreeable to the principles of the Bill, but I was submitting that in the course of these three or four years in which one party or one group has been in power, the voters' lists have been so manipulated by some members of the council or local body, whatever it was, to convert the wards into their pocket-boroughs. I will mention only one or two instances to make my meaning clear. There were some wards—I do not want to take my own place—in Adoni from which a councillor could be returned by about 50 or 60 voters, while in another ward, the voters came to 500 or 600. And so the complaint is—and I am sure the Hon. Minister for Municipalities will have received representations from the Adoni Municipal Council which has been superseded and also from other places—that the voters' lists have not been properly prepared. In some municipalities on account of increase in the population in accordance with the census of 1941, there has been

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an increase in the number of wards also. There too the wards have been so constituted as to give a pocket-borough to some members of the place."

* MR. PRESIDENT :—" Because this is a general discussion, I would like to limit the time of every member to ten minutes."

* DR. U. RAMA RAO :—" During the debate on a Bill, is there any time-limit? When a Bill is debated, in all legislative assemblies, there is no time-limit fixed. I want to have your ruling, Sir."

* MR. PRESIDENT :—" Mr. Bhima Rao."

* SRI B. BHIMA RAO :—" Sir, my only anxiety is, and I am representing a large section of opinion in the Bellary district which has authorized me to mention to this House, that the foundations for these elections have not been well and truly laid. The voters' lists have been so prepared as to give preponderance to some groups or some interests who want to be returned perpetually to municipal councils. Hence we want to see that the wards are reconstituted on some well-defined principles and that the voters' lists are thoroughly and completely prepared. With regard to the reconstitution of wards, it must not be left to the individual whims and fancies of the majority of councillors of a particular local body. For instance, the population of Bellary is 56,000, we have got 32 seats. The wards should be so constituted so that the voters' strength may correspond to a proportionate part, i.e., 1/32 of 56,000 or some other well-defined principles must be laid down for the reconstitution of the wards. It should not be that in one case one thousand voters should return one member while fifty voters only should return a member in another ward . . ."

* THE HON. MR. DANIEL THOMAS :—" On a point of order, Mr. President, I would invite your attention to rule 105 which says :

" On that date or on any subsequent day to which the discussion of the motion is postponed, the principle of the Bill and its general provisions may be discussed, but the details of the Bill must not be discussed further than is necessary to explain its principle."

I would submit, so far as this Bill is concerned, there are two main provisions, one to take away the power of nomination and the other to keep the period of election clear by entrusting the administration of local bodies to a special officer. I would ask for a ruling from you as to whether the question of reconstitution of wards comes under any of the principles of the present Bill."

* SRI B. BHIMA RAO :—" I submit, Sir, my remarks are with reference to some of the provisions. The Government want to rush before the elections are held. . . ."

* MR. PRESIDENT :—" That is a matter of detail. As the Hon. Minister said, there are only two principles; if you want to discuss either of these two principles, do so."

* SRI B. BHIMA RAO :—" The principle of election is quite good and nomination is bad. But in getting on with elections, let

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this principle of democracy be properly adopted. I think I have set forth my views sufficiently. I do not want to take up further time of the House. I hope the Hon. Minister will attend to this."

* SRI R. SURYANARAYANA RAO :—" Mr. President, we are grateful to you for giving us an opportunity to express our views on the general provisions of the Bill."

* MR. PRESIDENT :—" Then you must say you oppose the motion for consideration of the Bill."

* SRI R. SURYANARAYANA RAO :—" Sir, if we read the Statement of Objects and Reasons for Act XXIV of 1942, even His Excellency the Governor who enacted that Act at the time wanted those provisions only to be temporary. The words ' these nominated bodies will continue only for the duration of the war and thereafter for a period not exceeding twelve months ' are there. So, we are thankful to the Hon. Minister for Local Administration, that even before twelve months are over, he has brought forward this Bill to do away with the emergency provisions of Act XXIV of 1942. Sir, I hope—I am not clear, I am not a lawyer myself—in that Act XXIV of 1942 the Government also took power to reduce the number of members of the municipal council and the local boards. I hope this Bill restores the numbers to their original level."

* THE HON. MR. DANIEL THOMAS :—" On a point of information. I may say the Government have already issued notifications restoring the old strength of the municipal councils and local boards."

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* SRI R. SURYANARAYANA RAO :—" The trouble seems to be, Sir, as the Hon. the Minister has stated, with regard to clause 3. I wish in support of this clause 3, the Hon. Minister for Local Administration had not written that first sentence in the second paragraph of the Statement of Objects and Reasons. It is casting, Sir, indirectly an unmerited slur on those who have been carrying on the local administration though in a nominated capacity. He has stated that in view of the impending elections to the district boards, it is necessary to ensure that ' improper influence ' is not brought to bear upon any section of the electorate, etc. I wish he had not stated that. In fact he wants to restore the old position as it was under the Act of 1920. I have reason to believe and I know as a matter of fact there are many district boards and municipalities though consisting of nominated members which have done well in carrying on the administration with which they were charged."

* MR. PRESIDENT :—" It does not refer to this administration at all."

* SRI R. SURYANARAYANA RAO :—" What I wish to ask is that when a body is to be replaced by another body, is there any necessity to create an interregnum? To create an interregnum after the elections are over is indirectly, as he has unwittingly said, to ward off some ' improper influence ' of those that are now in power. I wish that had not been stated. After all, we want to

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reconstitute the local boards and municipal councils; we want the elected element to be restored and we do not want any nominated officers or nominated members to continue. I wish, Sir, that this reference to improper influence had not been made because there are honourable men who are nominated under the Act XXIV of 1942 and who still serve on these bodies, who would not use any improper influence and benefit either themselves or the groups to which they belong. Then, Sir, it is said in certain quarters that the object of creating this interregnum is to strengthen the party in power and to get their men returned. There are both points of view. On the one side it is felt that it is casting an unmerited slur on those persons who are now in office, and on the other side people attribute motives and it is feared that if these people are allowed to continue to be in office until the new members are elected, the prospects of those who wish to come to power may not be so bright as they will be if there is an interregnum.

"Then, Sir, I ask what is the idea of clause 3 (2). It runs like this: 'Where a special officer has been appointed under sub-section (1), he shall exercise the powers specified in sub-section (3) of section 240 of the Madras Local Boards Act, 1920, and any such officer who is not a District Collector or Revenue Divisional Officer may, if the Provincial Government so direct, receive payment for his services from the district fund.' Evidently, the object of the Government is to appoint special officers from among those who are not either Revenue Divisional Officers or District Collectors. It creates suspicion. It may be they do not propose to do so. There is no such provision in any of the Acts passed previously. There have been occasions when municipalities have been dissolved, district boards have been superseded, and Collectors appointed as special officers have carried on the administration. Why this section is introduced, I do not know, Sir. As in other cases, the Collector can be appointed as special officer; he may perhaps be assisted by a Revenue Divisional Officer. There was an instance in my own district where the district board was superseded and the Collector took charge and the Revenue Divisional Officer assisted the Collector in managing the affairs of the district board. It appears to be the desire on the part of the Government probably to bring in outsiders as special officers during the interregnum. In view of the fact that it is likely to create suspicion and that it is not necessary to create this interregnum—perhaps they never want to do it, but still since it is there—I see there is no need for this sub-clause.

"Coming to clause 4 relating to power to remove difficulties, though the heading of the section looks innocuous, there is much more substance when we read through it. The introduction of such a section has become common in almost all the Bills. It began I think six or seven years ago and it is being copied in every statute. In every Bill that is introduced, they try to put in this kind of clause and take power for the Government to order things as they like for the ostensible purpose of carrying out the intentions of the Bill. I see there is no need for this at least in regard to this Bill,

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the object of which is clear and no doubt is likely to arise in regard to its provisions. I wish this section had been omitted altogether. I am sure, Sir, Dr. John, who is a lawyer, will deal with it from a lawyer's point of view to prove that this section is not at all necessary. With these words, Sir, I resume my seat."

* DR. V. K. JOHN :—" Sir, while I heartily approve the two principles embodied in this Bill, I must say the Hon. Minister is not right in saying that only two principles are involved in this Bill—there ought to be two of the principles involved in this Bill—namely, substituting election for nomination and also creating an atmosphere for a free election. I heartily agree with him and I congratulate him on this. But, Sir, I regret that this Bill is apparently drafted in great haste and badly drafted too, and I do not want to go into all the details of the bill for the purpose of showing how it is badly drafted. There is nothing to indicate when the Act will come into force, though section 2 refers to the commencement of the Act.

" Under section 4 the Government intend to take powers to do anything which appears to them necessary for the purpose of removing any difficulty which might arise in giving effect to the provisions of this Act and the other Acts of 1920 and 1942 referred to in the section. I should have expected Government to ask for powers of subordinate legislation to make rules consistent with the provisions of the Act to carry the provisions into effect; they can make any rules consistent with this Act as well as the two previous enactments in force so that the purpose of this Act might be carried out. Instead of that, they say, 'if any difficulty arises in giving effect to the provisions of this Act, etc.' I ask, why should there be any difficulty at all. I know the Government of India Act refers to difficulties and the removal of difficulties in cases in which there is a transition from the 1919 Act to the Act of 1935—I think it is section 230—but even there they do not take the power to do anything like that. They only take power to make provision to effectively carry out the provisions of the Act and to remove the difficulties. What is asked for here is to give the Government power to do anything they like. It is very strange indeed. Not only they want power to do anything they like to remove any difficulty which they expect would arise in giving effect to the provisions of this particular Act which is before this House, but they covertly—I say this without casting any aspersion against anybody—seek to introduce a provision to the effect that if there be any difficulty in giving effect to the provisions of the Acts referred to in section 4, they may do anything they like. How can they introduce this provision? First of all, why should they think that there would be any difficulty at all in working these two Acts of 1920 especially when these local boards and municipal councils have been working satisfactorily for about 26 years and even courts of law have not found any difficulty. They do not explain that in the Statement of Objects and Reasons. They merely want to take power to do anything they like if they were to find any difficulty in giving effect to the provisions of this Act and the other Acts referred to in the section. But,

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when a difficulty arises even the courts of law will not be able to intervene because they will say, the Legislature has given the Government wide powers. If the Government, the Congress Government, the National Government, the Government which represents the people of this Province, is given such a power by the Legislature to do anything they like—they can do anything except perhaps making a man a woman. I consider it is going too far if they are given such overriding powers in regard to this matter. Therefore, what they should do in regard to section 4 is to ask for powers of subordinate legislation to make rules from time to time for the purpose of carrying into effect the provisions of this Act.

“ Sir, when I read this small Act, I find a provision relating to the fixing of dates for the election. I am afraid, the draughtsman of this Act did not remember the provisions of section 13 of the Madras General Clauses Act when he drafted it. If a third date is required they can resort to the specific power under the General Clauses Act to fix another date and they need not put it in here. Apart from that, they do not seem to have realised that if power is granted to the Government to do anything they like or if the Government is asked to discharge any duty they can exercise that power and discharge their duty from time to time. Again in section 2, instead of saying that the former Acts would be repealed, they say that the provisions of those Acts shall not apply. Instead of making these provisions what they should have asked for is, that they might be given power to cause elections to be held, also to fix the dates for the elections and also to do anything else they want. This Act also gives powers to the special officer in two places. In view of all these things, I consider that this is an ill-drafted measure. When I bring in my amendment to refer this Bill to a Select Committee I shall deal with this aspect in greater detail, but there I wish merely to point out that the principles embodied in section 4 of this Act are against any known provision of law passed by any legislature of any civilized country. In this Act they are asking for power to do anything they like and not to make rules. If any overriding powers are given to the Government to make rules, then courts of law or any other independent body may examine the rules and declare that a particular rule which is inconsistent with the Act as *ultra vires*. In an Act like this, the Government should ask the Legislature of this Province, the lower House as well as the Upper House to give power to them under the rule-making powers. Difficulties may perhaps be felt by unintelligent people and by those who do not study the Acts, but how the Minister should feel any difficulty one cannot understand. Have you heard of any piece of legislation in any part of the civilized country where governments have been given such powers? We have heard of provisions in other enactments where difficulties could be expected but power is given for subordinate legislation. Why should any difficulty be expected by this Honourable body of Ministers in 1946, in working out the provisions of the two Acts of 1920. I cannot understand. It therefore seems strange that the Government should now find it necessary to

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ask for this provision even though these two major Acts of 1920 have been worked out fairly satisfactorily in the course of the last 26 years. I therefore submit that the provision underlying section 4 is not based on any principle and if this House is going to give the Government powers which shall never be questioned by a court of law, then this House can as well abdicate its powers. I therefore suggest a reconsideration of section 4. Of course any measure like this can be passed by a majority; although some of the members would like to criticise, they are all kept in silence. Now when the Government has got a huge majority, a very great responsibility is cast upon them to see that the powers given to this majority are not exercised for the purpose of asking this Legislature to abdicate its functions of legislation and confer all powers on the Government. This national Government, this Congress Government, wants to be given all powers to do anything they like to carry on the Government of this Province and that neither the Legislature nor the courts of law should question their acts. I am sure, so far as I know of the Hon. Mr. Prakasam, he will certainly do many things which are for the good of this country, but are we, members of the Legislature, to abdicate our functions and tell the Government, 'you take all the powers and we withdraw'. I appeal to the other section of this House, the Congressmen, if they had realized their responsibilities as members of the Legislature returned by the people, the first thing that they should do—this might have been done at the party meetings or on the floor of this House—is to see that the Legislature does not abdicate its functions, since no legislature has given much over-riding powers to the Government to meet difficulties and to carry out the provisions of this Act. I find that King's English is being murdered in the draft of this Act. In fact, there is such an uproar in France and England against Executive being given large powers of legislation. I say we should not give this power; we must be watchful of legislative powers given to Government; but if we are to abdicate our powers and allow them to do anything they like. I suggest my hon. Friends can as well introduce one Bill straightforward to enable them to carry on this Government and to do anything they like."

* SRI N. RANGA REDDI :—" Sir, I should like to congratulate the Hon. the Minister for Local Administration in having come forward with this Bill. Nobody can possibly have any objection with regard to the principle of introducing election. This method has been in vogue for the last forty years and I am sure no one would object to that principle.

" Sir, the next thing that has been objected to is about the preparation of the electoral rolls and also in regard to the appointment of special officers. My hon. Friend, Mr. R. Suryanarayana Rao, laid special stress on the wording of the section which might suggest that the present officials who are in charge of the administration of the District Boards may use their powers for a purpose which is not beneficial and that it is casting a slur on their administration and for this purpose, he objected to the introduction of the clause.

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I may submit, Sir, for the consideration of this House, that this clause is not intended to cast any slur on the administration of the official Presidents or the non-official Presidents. As one who had experience in the administration of local bodies, I consider that it is essentially necessary that such a clause should be put in in an Act of this kind. I have bitter experience of Presidents when opposed by rival candidates, have gone even to the extent of doing some undesirable things for keeping themselves in power."

* MR. K. O. ANTHONI :—" Does not this occur in Parliamentary Elections as well? "

* SRI N. RANGA REDDI :—" I do not know anything about it. When elections are held, when people are interested, they go to any extent. They have been doing these things, and it is to guard against such malpractices, that this provision is absolutely necessary. I may also submit, Sir, that if this provision is inserted, it will not do any harm to any particular party in this Province. As a matter of fact, when elections are held, there is no other party that could challenge the Congress Party. It is only the Congress Party that will be returned successfully in all the elections. Therefore, Sir, this Government is not afraid of elections. (Abdul Latif Farookhi Sahib Bahadur : Question.—Then why this fear of these people)? I may submit, Sir, that the organization of the Congress Party is not afraid of fighting any election but it wants to be fair to its opponents. I am sure, Sir, that many people may not like to stand against the Congress Party candidates in the elections. Therefore, I do not think there is much substance in saying that this clause is inserted for the purpose of strengthening the party in power. It is said, Sir, that this clause casts a slur. Sir, nobody on this side of the House has taken it as casting a slur. I admit, Sir, that there are some honourable Presidents of District Boards who are discharging their duties efficiently; I do not say that there are no honourable Presidents of the District Boards because they do not belong to the Congress Party. Every rule has an exception. Therefore, I submit, Sir, it is not meant to cover such men but to prevent those men who are likely to misuse their influence in the matter of these elections that this clause is put in.

" Then, Sir, about the fourth clause: Of course, my hon. Friend, Mr. John, has expatiated at great length upon this clause and has stated that it takes away the power of this Legislature. He dwelt at length on this clause and said that the clause takes away the power of the Legislature and vests the same in the hands of the executive. It was also stated that members of the Congress Party would demur to such a proposition, if their voices are not stifled. I may tell, for the information of the House, and especially those that have raised this question, that we have got the freedom to say what we have got to and are in no way bound by party discipline in the matter of giving expression to things concerning administration. If we say anything in support of this measure, it is not because of party discipline but because we are speaking our

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minds. So far as this section is concerned, I say that it is not only desirable and just but also intended for the benefit of this Province. Let us just imagine what will happen if it does not find a place in the enactment. If any dispute arises with regard to an interpretation of the clauses of the Bill, we will have to rush to courts of law and everybody who is conversant with the position realizes what it all means. There will be the law's delays; elections will be held up; administration of the local boards will be held up and so many things would be thrown out of gear. If any difficulty arises with regard to the interpretation of any clause, the Local Government steps in and takes action. It is therefore necessary that they should take this power; otherwise such confusion, as I have already explained, will result. Moreover, it does not mean that the power of the courts are taken away. The courts can interpret the laws subsequently in any manner they like. The powers that the Government take in their own hands are only to give immediate remedy should that be found necessary in the administration of this Act. Section 4 does not, therefore, give any overriding powers to Government as has been made out by my hon. Friends. Therefore, I submit that the Bill can be passed without opposition."

* MR. K. O. ANTHONI :—" Mr. President, I must congratulate the Hon. Minister for Local Administration on having brought in this measure, especially for upholding the principle of election as against nomination. There are only one or two points I wish to raise with regard to this Bill and I shall state them briefly. The first point is that I am not quite convinced of the necessity for the interregnum. Generally, in all countries where political parties exist, elections are held during the period when one political party is in power and until the party that is returned to power takes office, the old party continues in power. Simply because there are local bodies which have been nominated, it does not mean that on account of their continuing in office, there is likelihood of undue influence being brought to bear in these elections and for that purpose an interregnum should be created. Secondly, rather than electing local bodies, under the Act of 1920 for another period, I should have expected the Hon. Minister for Local Administration to have gone into the question of franchise, into the question of safeguarding the interests of minority communities so as to facilitate the reconstitution of the Boards. As a member of the Indian Christian community, though I do not believe in asking for special protection, I believe that the 1920 Act has not made sufficient provision to afford proper representation to the community according to its strength, in the local bodies. I should have expected a comprehensive Bill wherein adequate representation is given to minority communities. Thirdly, in spite of what my hon. Friend, Mr. Ranga Reddi, has stated, I agree with my hon. Friend, Dr. John, in thinking that the Government are taking unduly large powers under section 4 of the Bill. Whatever justification there may be for doing certain things in connexion with this Act, I do not find that there was any necessity for such powers being taken in

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respect of the previous Acts as well. Section 4 says 'if any difficulty arises in giving effect to the provisions of this Act, or of the Madras District Municipalities Act, 1920, the Madras Local Boards Act, 1920, or the Madras City Municipal, District Municipalities and Local Boards (Second Amendment) Act, 1942 Government seek such powers in respect of the previous enactments as well. There is no doubt that very large powers are sought to be taken by clause 4 which does not appear to be democratic. My feeling is that, if the intentions of Government are just to tide over difficulties in case they arise in the administration of this Bill, they should confine themselves to this Bill.'

* ABDUL LATIF FAROOKHI SAHIB BAHADUR :—Mr. President, the Bill as passed by the Assembly is designed, I fear, to defeat the very object which has been so ably expressed by my Hon. Friend, the Minister in charge of Local Administration. To the man outside, it appears as if the Congress Party which is in power to-day is nervous about its own position and it is afraid to face the electorate (Hon. Members: 'Question' and 'Oh! Oh!'); and you want to place your own men—the men of the party in power—in charge of affairs when elections are to be held for local boards. The argument is that if the present people are allowed to continue in office as members they will use their influence either to coerce the electorate or force them to vote in the manner they like. May I just ask one question of the Hon. the Minister? What will be the position after five years when you will have to seek re-election? Are you to be replaced by other people to be nominated by some Government? It is not so, and how does the Hon. Minister say that if the present people were allowed to continue they will try to exercise undue influence on the electorate and to coerce them?"

* THE HON. MR. DANIEL THOMAS :—"I made no such statement."

* ABDUL LATIF FAROOKHI SAHIB BAHADUR :—"It need not have been stated in so many words. It is implicit. The object is there and the purpose is there that the Government want to have their own men at the time of the elections to conduct the elections. The Hon. Minister said that he wanted to follow certain democratic principles and that was that nominations should be done away with and that they want to see that people are elected. But here, Sir, that very principle to which they are opposed is introduced and they have recourse to nominations. Whether it is for an interim period or whether it is for a short period or permanently, the Bill seeks to give power to Government to nominate people and see that these people are in power at the time of the elections. It is clearly shown that these people who will be nominated will be the favourites of that party. They are not going to nominate me or my hon. Friend Mr. Ahmed Ibrahim Sahib. (An hon. Member: 'Who knows?') Your attitude and your behaviour ever since you have taken office is the best proof to show that you are not going to have impartial people; you will only put in your own favourites. Therefore, the Bill is opposed to all democratic principles, namely, the principle of

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election and here you see the principle of nomination introduced while so much is made about the democratic principle and in its very name this is done. (An hon. Member: 'Then can we have this House to elect the special officers?') Not necessary. I am coming to that. I am not able to understand what harm will be done if you allow the same people who are there to continue for a month or more. All the members in municipalities and local boards are not nominated. If proper explanation is not given and if the Government are going to have recourse to nomination, I say that they are acting in opposition to the very principles which they have been advocating, namely, democracy and election.

1-15 P.m. "Then, Sir, if Government are going to appoint special officers, why not they appoint people holding high posts, I mean, high officials like District Collectors and Deputy Collectors. It was reported in the papers that the Hon. Premier said that Government had no such power to do. I ask, 'why not you take power for that instead of nominating ordinary people who will be nothing but yes-men of the Congress Party'. I say, even Collectors may be put in charge of the elections, as ex-officio presidents of the district boards.

"Then, again, Sir, in this Bill, it has not been said, who are going to be appointed, and what will be their status. Is it to be left to the whims and caprices of the people in power, who no doubt will bring to bear their influence? Then, Sir, as has been pointed out by some hon. Members there is no need for clause 4 at all. It says, 'If any difficulty arises in giving effect to the provisions of this Act . . . the Provincial Government may, as occasion may arise, by order do anything which appears to them necessary for the purpose of removing the difficulty.' The words, 'to do anything' clearly shows that the Government are up to grasp any power; they want unlimited powers, any extraordinary powers. They must realize they are bound to come to the Legislature for any power they want. Under the power sought for, they will say, every action of theirs is right. I say, this is an extraordinary power that is sought for. Such powers cannot be given by any Legislature to the Government. Therefore I feel this clause is undemocratic. Sir, I do not want to say much on this. So I would only reiterate that this Bill is brought in by the party in power for the simple purpose that all power should be vested in their hands, that the Legislature and the country should be helpless and should have no power, and that everything should be left to the Government alone. So, Sir, I feel on behalf of the Muslim League Party, that this is a retrograde measure, an undemocratic measure, a measure to which no Legislature can give sanction."

* SRI M. NARAYANA MENON :—"Sir, I rise only to point out the principles involved in this Bill. The Statement of Objects and Reasons makes it clear that this Bill is brought in only to facilitate the coming elections. I cannot understand the criticism levelled by the Members of the Opposition, namely, that this measure is brought in because the Congress Party want to try to gain power over district boards and municipalities and so on. I may at once

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say that this certainly is not the object. If that is the object, I assure you no Bill is necessary. For, if the elections are to be held even to-morrow, I am sure, the Congress will come in, in a thumping majority. It should be remembered that we are now changing from a bureaucratic government to a popular government. All the nominations in district boards and municipalities were made by the Advisers' Government, and now when there is a change over from the bureaucratic to a democratic government it is necessary that those nominated members should go away so that the elections may be conducted in the spirit of freedom and confidence by the people.

“ Then, Sir, I agree with my Friend, Dr. John, in his contention that such wide powers as are sought in clause 4 of the Bill should not be given, for, there should be no act done by the Executive unless that act is in accordance with the principle sanctioned by the Legislature. In a popular government how can such wide powers be asked? Unless the measure is brought before the Legislature how can we understand if it is beneficial to the people or not? It is said in the House that members of the Congress Party are not allowed to express their opinions freely on any matter but I say we have the liberty to express our opinion on any point which appears to be defective.

“ The Hon. Minister in charge of Local Administration said that similar provisions existed in several other Acts and therefore such a provision in the present Bill cannot be objected to. Sir, I submit it is no argument at all. In fact we should bring in a legislation to take away such provisions from the enactments the Hon. Minister has in view.”

* K. T. M. AHMED IBRAHIM SAHIB BAHADUR :—“ Mr. President, Sir, like my friends of the Opposition, I oppose the very principles on which this Bill is based. First of all, in regard to the appointment of special officers, I would like to point out that these powers have been taken not to remedy any evil, not to fill up any gap, but to fill up an interregnum to be deliberately created for the purpose of appointing special officers. Already the district boards are functioning, whether they are nominated or otherwise. Unless Government suspect that these nominated boards will not conduct the elections impartially there is no purpose in having these special officers appointed. All these district boards have been functioning since 1942, and unless Government suspect their *bona fides* the present Bill cannot be justified. I do not see why they should not be in power for the purpose of carrying on the elections, a small matter when compared with the numerous functions they are doing already. Now, Sir, we had our greatest suspicion with regard to the Food Committees; we apprehended that the Food Committees would be really replicas of Congress committees and even so, we feel this measure is intended to convert district boards into duplicate Congress committees. Only yesterday I had been to Nellore and I was told by a responsible person that

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the Parliamentary Secretary who was deputed to go into the grievances of the people regarding the Food Committees had gone there and very much upset the Food Committees as constituted by the local officers in consultation with the Legislators of the district—even though there had not been any complaint about them—with the deliberate purpose of reducing the strength of the minority communities like the Muslims. Similarly, also, Sir, I feel this is a subtle move to convert district boards into duplicate Congress committees; otherwise I do not see any reason why these special officers should be created. If the principle of this measure is to be accepted, then for every institution of democracy an interregnum must be created and a special machinery should be set up for elections. If the House of Lords or the House of Commons were to be dissolved there must be a special officer, or rather a dictator, appointed. When this House is dissolved—I am sorry, this House is a permanent body (laughter)—suppose the other House is dissolved, then a special officer should be appointed to conduct the elections and it is needless to say that they will be dictators. Sir the object of the Bill is patent and is entirely undemocratic. Therefore, I oppose this measure with all the strength I can command. We know our cry will be a cry in the wilderness, but still we deem it our duty to voice our protest. We know the Government have a strong majority, but still we feel we cannot sit idle without giving expression to our protest.

1-30 P.m. “With regard to clause 4, Sir, I submit, it is too comprehensive. It is not a question of taking any power to interpret, but it is ‘to do anything which appears to Government necessary.’ For what purpose? Not only for the purpose of section 3 alone, but to do anything under all the Acts mentioned, viz., the District Municipalities Act and the Madras Local Boards Act. These things are dealt with in a subordinate manner. The provision regarding these major Acts has been drawn into section 4 in a very subordinate and secondary manner as if it is a minor matter of not great importance. Government take power to do anything that is necessary not only for the purpose of this Bill, but also for the purpose of the two main Acts relating to Municipalities and Local Boards. This power is taken in a very subordinate manner, I would say. If they wanted power for the purpose of putting into effect the various provisions of this Act they could have taken rule-making powers, but their main idea is not that. They want to do anything, not only with reference to this Act, but with reference to every Act concerned with Local Self-Government of this Province. This is too comprehensive a matter, a serious matter for this House to submit so easily. They may even abrogate the main provisions of the main Acts. There is nothing to prevent them. As my hon. Friend, Dr. John, said they may as well bring an Act that the Government shall have power to do anything they like for the governance of this country. It was said that the Congress is not in any way afraid of fighting the elections. We know, Sir, so far

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as the elections to Local Boards and Municipalities are concerned, they are not afraid. They have got the majority in each district board area and in almost each municipal area, and with that majority they would be able to contest the posts. There is no doubt about it, because so far as the Muslims are concerned there is no separate electorate. Even in the Madras Corporation Council, when a resolution was introduced for separate electorates for Muslims, it was rejected, while the Scheduled Classes were given. In these circumstances, it is quite possible that they are not afraid. If there were separate electorates, then they will understand; what has happened here in this House will happen there also. Not a single Muslim either in this House or in the other House is on the other side, though from the very beginning we have been offering our co-operation. In every essential matter even that co-operation is almost rejected. (Sri C. N. Muthuranga Mudaliyar: 'Only lip co-operation.') That is wrong, Sir. The Government's sympathy and their willingness to accept our co-operation is only skin-deep; it is only lip sympathy. The hon. Member is only reflecting his Party's mind. Yesterday, I had been to Nellore, and there, even though the Parliamentary Secretary had not been asked to intervene, he interfered and simply upset the arrangements."

* MR. PRESIDENT :—" I am sure he is not the Special Officer contemplated under this Act." (Laughter.)

* K. T. M. AHMED IBRAHIM SAHIB BAHADUR :—" The same thing applies here also, Sir. I said, when I began, that what happened to the Village Committees will happen here also. These district boards are going to be merely the duplicates of the Congress Committees in the districts. If hon. Members will go round, they will find what is happening in all the districts in this matter. Sir, section 4 is too comprehensive. Further, even with regard to interpretation, absolute power is given to Government. When the question of interpretation of the statement of the Cabinet Mission came, all the top-ranking Congress leaders said 'there is the Federal Court to interpret', and not even the authors of the statement were allowed to interpret. Now the Government is not content with taking the interpretation of these Acts for themselves, but want to do anything they like under the Sun in matters appertaining to every Act connected with Local Self-Government, thereby taking away what little rights are given to the people in the matter of Local Self-Government."

* DR. V. K. JOHN :—" They will act to send you to jail." (Laughter.)

* K. T. M. AHMED IBRAHIM SAHIB BAHADUR :—" Of course we are not fighting shy of going to jail at all. It is on account of the Muslims having gone to jail and made sacrifices that the Congress are in power to-day. (Laughter.) I challenge, let them take statistics. My hon. Friend, Mr. Daniel Thomas, will remember that when he was practising in the law courts during

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the first movement, I did not get anywhere near the law courts
I was one of the three who gave up practice in my district.”

* THE HON. MR. DANIEL THOMAS :—“ You set a good example.”

* K. T. M. AHMED IBRAHIM SAHIB BAHADUR :—“ Certainly when it comes to a matter of jail-going you will find what will happen. We do not want comforts at all in jail. Dr. John need not suspect our *bona fides* in this matter. Finally I request the Hon. Minister for Local Self-Government to reconsider whether such comprehensive provisions are necessary under the present democracy.”

* THE HON. MR. DANIEL THOMAS :—“ Mr. President, Sir, we are grateful to the hon. Members of this House for the very effective contribution they have made to the debate on this question. This debate has elicited points of agreement and points of disagreement. On the main principle of substituting election for nomination there has been whole-hearted support from either side of the House. I take it, Sir, that clause 2 of the Bill, under which we set aside the system of nominations, which has been brought into the Statute Book in 1942, and we are now only re-introducing the principle of election. As regards clause 4, there are a number of hon. Lawyer Friends in this Council who had their dissection of clause 4. I submit that I find it rather difficult to follow the arguments of some hon. Lawyer Friends.”

* DR. V. K. JOHN :—“ You will always find difficulty.”

* THE HON. MR. DANIEL THOMAS :—“ I submit, Sir, that it is not the unintelligent man that feels any difficulty, but it is the intelligent man who feels any difficulty. It is the man who tries to go deep into a certain matter, who goes to the pros and cons of the matter who feels any difficulty. There is nothing derogatory for any hon. Member—including the Minister—in feeling any difficulty. I feel difficulty in appreciating the arguments of some hon. Members of this Council. They say, Sir, ‘ why should you not take rule-making powers.’ My hon. Friend, Dr. V. K. John, and my hon. Friend who just spoke said ‘ Well, it is open to the Government to take power, or to make rules under this enactment.’ As a matter of fact, you will find that in most of the enactments which have been put on the Statute Book, including the Madras Local Boards Act, 1920, and the Madras District Municipalities Act, 1920, rule-making powers have been taken for the purpose of carrying out and putting into effect the main provisions, as they are outlined in the Acts themselves. But, Sir, there is a difference between the Acts of a permanent character and Acts which are only applicable during a transitional period. For Acts which are deemed to have any permanent character, rules are framed, as a permanent measure to carry out the various provisions of the Act. But in certain temporary Acts for a certain period, no rules need be framed. In the Madras

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Act XV of 1937, you will find a similar provision to this effect. Again in Madras Act II of 1938 and in Act V of 1938 you will find this provision. In Madras Act V of 1938, you will find 'if any difficulty arises in giving effect to the provisions of this Act, as amended, the Provincial Government may, by order, do anything which appears to them necessary for the purpose of . . . ' I submit, Sir, certain Acts are temporary and transitional in character, like Act XXIV of 1942, which automatically lapsed. It was only for a period of two years."

* DR. V. K. JOHN :—" The Hon. Minister is not correct. It is only for the period of the expiry of the term. It is not taking power under the two Acts of 1920 to do anything if any difficulty arises . . . "

* THE HON. MR. DANIEL THOMAS :—" I am afraid I have not made the point clear. The District Municipalities Act of 1920 is of a permanent character. Certain powers are vested in the Government under this Act. But this Act (Act XXIV of 1942) is not a permanent Act. It is limited in operation. It is only for two years from the termination of the Advisers' regime. I am making a distinction between Acts of a permanent character and Acts which are temporary in character and which are intended to tide over certain contingencies that may occur, where power is taken only to make an order. The Madras Act V of 1938 itself is transitional in character. In Acts of a transitional character, power is taken not to make rules, but only to pass certain orders, because the duration of the Act is short. The difficulty may be met by an order passed by the Government for the time being for removing the difficulty as it arises. This clause 4 is not intended to confer more powers on the Government than are indicated under the rule-making powers. Clause 4 of the present Bill does not seek to confer on Government larger, wider and greater powers. Instead of saying, Sir, 'by any order' in clause 4, would it satisfy my hon. Friends if the words 'the Government of Madras may make any rule to tide over that difficulty' are put? That is why, Sir, I am unable to appreciate my hon. Friends' arguments. If they concede the power to frame rules and to make regulations for carrying out the provisions of this statute, why should they not concede the power to 'pass an order.' I would therefore suggest that the apprehensions of my hon. and learned Friends are unfounded. It has been said 'it is rather wild in conception, this Congress Government has got a large majority, they will do anything that they like for any purpose they deem necessary.' I am glad my hon. Friends of the Opposition realize that the Congress Ministry has a large majority in this House. The very fact that in spite of the power that we possess, in spite of the things that we might do, we restrict ourselves, and we limit ourselves to the narrow necessities of the particular occasion, is itself an indication that we exercise the powers wisely and diligently. It has been said: 'here is a

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power which is not even open to being questioned by a court of law,' whereas rules can be questioned in a court of law. I do not agree to the distinction. Rules which go beyond the purpose and provisions of the Act can be questioned in a Court of Law. I see no difference on principle. If it were an order, whether it is under the rule-making powers or under the Act which is intended to subserve, to carry out and work out in actual execution the purpose of the Act it could not be questioned in a court of law. I would therefore read 'if any difficulty arises in giving power . . . ' the Provincial Government may, by order, do anything which appears to them necessary for the purpose of removing any difficulty. This question arises only if the difficulty is arising or has arisen and the occasion for that difficulty to be overcome has also arisen when this clause will be utilized to make the order. We know great things are held up by small things. The whole provisions of an Act may be held up by a small snag somewhere. This clause is only to give powers to Government to overcome these small difficulties that stand in the way of carrying out the bigger provisions, the main provisions of the Bill."

* DR. V. K. JOHN :—" Power to do something which they otherwise cannot do legally."

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* THE HON. MR. DANIEL THOMAS :—" I submit. Sir, I would make it clearer that if anything is done under the provisions of this clause, which could not be deemed necessary for the purpose of removing the difficulty, it would be *ultra vires*. The only order which will be *intra vires* of the provisions of this Act would be any order necessary for removing a difficulty that comes up unforeseen. Therefore I say the wild statements and loose languages used by some hon. Members of this House that this clause is giving any sort of power to the Government to act in whatever manner they think right should not have been used. It is strictly limited and restricted to carrying out the provisions of the Act. The provisions of the Act are set out in clauses 2 and 3. The provisions of the Act lay down that elections should be held in the place of nominations. Another provision says that there should be appointed special officers in the interregnum period. If unforeseen and unforeseeable difficulties arise in these cases, then the Government will pass an order."

* SRI R. SURYANARAYANA RAO :—" May I enquire why for these purposes it is expedient to amend the Madras District Municipalities Act, 1920, the Madras Local Boards Act, 1920, and the Madras City Municipal, District Municipalities and Local Boards (Second Amendment) Act, 1942? "

* THE HON. MR. DANIEL THOMAS :—" That is a simple matter. The original Acts are the Acts of 1920. The Act of 1942 is an amendment to the old Acts. So in this Act, we have put an amendment of all the Acts. It is only a technique of drafting and my learned friend need not see any suspicion in the clause."

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“ So far as clause 4 is concerned, it is a necessary clause for the purpose of enabling the provisions of the Bill to be put into effect and I submit the apprehensions of my hon. Friends as regards unrestricted powers supposed to be vested in the Government are not well-founded.

“ I shall go on to clause 3. So far as that clause is concerned, my hon. Friend Mr. Suryanarayana Rao drew attention to some supposed slur on the existing nominated bodies. I would emphatically dissociate myself from any such slur. Under the law, all citizens of the country are supposed to be innocent till they are found to be guilty. It is a presumption in favour of the innocents. There is also a presumption in our favour that we are law-abiding citizens who never transgress public tranquillity. But the fact that men are presumed to be innocent does not take away the necessity of the Indian Penal Code nor does the presumption that all people are quite peaceful and of a law-abiding character take away the necessity of providing bandobust and protection whenever and wherever necessary. Therefore I say this clause has been put in only by way of abundant caution for possibilities. If no occasion arises, there is an end of the matter. In view of the impending general elections to the district boards, it is necessary to ensure that improper influence is not brought to bear, which is likely to be brought to bear. In order to prevent the possibility of improper influence being brought to bear upon the electorate, this clause is enacted. It is not merely a question of improper influence being brought to bear or not brought to bear. It is a question of background atmosphere. Supposing a president of a district board stands for election to one of the seats, would it be fair to allow this district board president to be in office till the actual date of the election when his opponent is trying to work up the electorate against him? Would he be having a fair field and no favour? I would also submit, the position is that most of these nominated boards have been brought into existence not as representatives of the people. Not to appoint special officers to popular bodies with the elected representatives in office till a new set of people come is quite right in principle. But here the principle has no application, because these bodies are not elected representatives of the people, but nominated by the Government functioning under section 93 of the Government of India Act. Therefore, I submit that the principle that there should be a fair field and no favour during the period of elections is a principle which should be accepted and not open to reasonable criticism by any member of the House.

“ Then it has been asked : ‘ Who is to be special officer? Will he be the Collector or the Revenue Divisional Officer? ’ Well, Sir, I would instance a concrete case. The Chittoor District Board was superseded and we have appointed a special officer. History repeats itself. What will be done in the future can be judged by what has been done in the past. Did we appoint our own party-man as the special officer of the superseded Chittoor District Board? We have appointed Mr. Amirthaganesan who was

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appointed as a Commissioner during the Advisers' regime and who had been working as a Superintendent of the Finance Department in the Secretariat. We appointed that person to this office. There has not been a whisper or complaint against the administration. My hon. Friends asked : ' Why should you suspect nominated bodies of exercising any influence ? ' May I repeat that question : ' Why should you suspect Government of appointing improper men ? ' Am I not in fairness entitled to put the same question if you put the question to me ? I would submit that the responsible Government of this Province will certainly see that the objects and reasons set out, namely, that this is intended for the purpose of ensuring fair and free elections will be fulfilled. You can take it that the Government will appoint only such persons against whom there can be no possibility of complaint of partiality or party loyalty. I will therefore submit that in this matter also there can be no reasonable ground for objecting to the provisions of this Bill. It is not necessary, I believe, for me to go through the various detailed criticisms of my hon. Friends.

" Mr. Bhima Rao referred to the division of wards and constituencies in certain municipalities. I would submit that is a matter which has been already completed after due and proper notification. The present list of electoral rolls are made on the basis of the Assembly electoral rolls, and these lists were prepared only recently. So far as division of wards and constituencies is concerned, they were prepared after due notification published in the Gazette and time afforded for criticism. So far as the division of wards and constituencies is concerned, while things are as they are, there will always be difficulty in proper and fair distribution. I agree that in particular instances there has not been proper division of wards. It is not possible to readjust the boundaries of these wards before the time of the forthcoming elections. The Government would see if it is possible in particularly gross cases. But ordinarily it will take a long time. When we begin the reconstitution of wards, there will be a hue and cry from every municipality and district board throughout the Province, that there is some particular difficulty in ward A or ward B. That will lead to a lot of complications which will put off holding elections as contemplated by the Government. These municipal councils and district boards were elected in 1937, and it is high time that elections should be held with the least possible delay. I would therefore suggest that anything which is likely to postpone elections, to create new difficulties and to stand in the way of elections being held within the scheduled time as contemplated by the Government will be difficult to accept at the present time.

" My hon. Friend, Mr. Anthoni, said that there was not adequate representation for certain minority communities. That question is being examined by the Government. We have appointed a special officer who is going into the whole matter. He is trying to collect population statistics and go into the representations due to minorities like Christians, Adi-Dravidas and Muslims. I would

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submit that in this matter also the Government are anxious to give proper representation. (Abdul Latif Farookhi Sahib Bahadur : ' Very kind of the Government. ') Whether appreciated kindness or unappreciated kindness, it does not matter. I submit the Government are anxious to take every step and make every endeavour to give adequate representation to the minority communities in the local bodies.

" We are attempting to reorganize the local bodies. Mr. Anthoni Pillai said that there should be comprehensive legislation in this matter. It is not comprehensive legislation that we have now brought forward. The comprehensive legislation is likely to be introduced in the future. (Mr. K. O. Anthoni : ' I do not like to be called " Pillai." ') We are all children of our parents and in that sense we are all ' pillais.' I apologise. Mr. Anthoni suggested that comprehensive legislation should be brought forward. Such comprehensive legislation is under the consideration of the Government. In fact, we intend to amend the City Municipal Act, the District Municipalities Act, and the Local Boards Act to give the local bodies wider powers and greater responsibilities for attending to the immediate needs and local welfare of the citizens in their areas. Such powers and such responsibilities are necessary. We are also giving greater resources of revenue in order to enable them to carry on the administration effectively and in a manner which is really helpful to the health, happiness and well-being of the citizens. Without distinction of party or creed, whether Hindu, Muslim or Christian, let us all join and work our local bodies in a manner worthy of our past traditions and build up still nobler traditions for the future. I commend this Bill for the acceptance of the House."

The motion was put and carried.

* MR. PRESIDENT :—" There is a point which I want to place before the House. The Assembly is meeting at three o'clock. So I propose to adjourn the House now.

" As regards to-morrow, since this Bill is still unfinished, I am personally inclined to go on to-morrow also though the office feels some difficulty in both the Houses meeting on the same day. But if I can get some help from the sense of the House, I would like to adjust myself accordingly. I would like to go on to-morrow and finish this Bill. But if hon. Members feel otherwise, I am prepared to adjourn once for all for a few days, and allow the Assembly to finish its business. May I know from the Hon. Prime Minister what he thinks about it? "

THE HON. SRI T. PRAKASAM :—" I feel that it is better that we continue to-morrow also."

The House then adjourned to meet again at 3 p.m. the next day.